

HCBS Compliance Assessment Packet – NON-POCO RESIDENTIAL SETTING

Information and Instruction Sheet for Providers

This packet, provided by the Division of Mental Health and Addiction (DMHA) State Evaluation Team (SET), is designed to assist community mental health center (CMHC) staff in assessing residential settings which are not owned, controlled, or operated by the CMHC for compliance with the Centers for Medicare and Medicaid Services (CMS) Home and Community Based Services (HCBS) Settings Final Rule ("the Final Rule"). Per the Final Rule, Indiana is responsible for assessing and ensuring the HCBS compliance of the residential setting for every member applying for or participating in any Medicaid HCBS program, including the two 1915(i) Medicaid State Plan Benefit mental health programs for adults in Indiana: Adult Mental Health Habilitation (AMHH) and Behavioral and Primary Healthcare Coordination (BPHC). Indiana's HCBS Statewide Transition Plan (STP) tasks individual CMHCs with assessing and, where required, ensuring the HCBS compliance of a member's residential setting when the member does not live in a setting owned, controlled, or operated by the CMHC.

Overview of the Assessment and Compliance Determination Process for Non-POCO Residential Settings

The majority of members participating in AMHH or BPHC live in their own homes, or with a family member in a home owned or rented by that family member, and these settings are presumed to be fully compliant with the requirements of the Final Rule. Other members live in residential settings owned, controlled, or operated by a CMHC, and DMHA has been heavily involved in the assessment and compliance process for those residential settings. A small number of members, however, live in non-POCO residential settings not owned, controlled, or operated by a CMHC, such as (*this list is not all-inclusive*):

- Residential Care Facilities (RCFs); this category includes licensed Assisted Living Facilities (ALFs) and Adult Family Care Homes (AFCHs)
- County Homes
- Cluster homes or cluster apartments owned by non-profit agencies

Assessing living situations not owned, controlled, or operated by a CMHC can be complicated, because it is possible that a provider of HCBS other than a CMHC may operate or be delivering services at that setting. The Indiana FSSA agencies Division of Aging (DA) and Division of Disability and Rehabilitative Services (DDRS) administer four other Medicaid HCBS programs, known as 1915(c) Home and Community-Based Waivers:

- Traumatic Brain Injury (TBI; administered by DA)
- Aged and Disabled (A&D; administered by DA)
- Community Integration and Habilitation (CIH; administered by DDRS)
- Family Supports (FS; administered by DDRS)

A member receiving services under any of these 1915(c) waivers also must live in a setting which is HCBS compliant. Many members participating in 1915(c) waiver services live in non-POCO residential settings, most commonly assisted living facilities or other licensed residential care facilities, since these waiver programs are

designed to provide an “institutional level of care” in non-institutional settings. Many of these settings and their staff are approved by DA or DDRS to provide the services authorized under a 1915(c) Medicaid waiver.

While uncommon, it is possible that a member applying for AMHH or BPHC lives in a residential setting not owned, controlled, or operated by a CMHC which is an approved provider of 1915(c) Medicaid waiver services. As a result, **even though the AMHH/BPHC applicant’s residential setting is not owned, controlled, or operated by the CMHC, the setting may still be a “POCO” residential setting whose HCBS compliance is determined by a state agency other than DMHA.**

Responsibility for Assessing and Ensuring HCBS Compliance

1. Non-POCO residential settings owned, controlled, or operated by a CMHC have been previously identified and assessed by DMHA, and CMHCs are working closely with DMHA to bring those settings into full HCBS compliance. DMHA makes compliance determinations for these settings.
2. Residential settings NOT owned, controlled, or operated by a CMHC, but which ARE approved providers of one or more 1915(c) Medicaid waiver services, fall under the responsibility of DA or DDRS for HCBS assessment and compliance. DA or DDRS (or both), depending on the waiver services the setting is approved to provide, makes compliance determinations for these settings.
3. For residential settings not owned, controlled, or operated by ANY provider of HCBS [a CMHC or approved provider of 1915(c) Medicaid waiver services], **the CMHC** is responsible for assessing the HCBS compliance of the setting, and for ensuring the Setting Operating Authority (SOA) completes any remediation required to bring the setting into full HCBS compliance. DMHA makes compliance determinations for these settings, as well.

How Often Must Non-POCO Residential Settings Be Assessed?

CMS requires that every setting in which a person receiving Medicaid HCBS lives must be compliant with the requirements of the Final Rule. Settings only need to be assessed for compliance **one time**, unless there are substantive physical or service programming changes at the setting which could conceivably have an impact on the setting’s HCBS compliance status. Examples of “substantive changes” include:

1. Removal of lockable bedroom or bathroom doors
2. Changes to meal arrangements or food availability
3. Implementation of curfew or visiting hours
4. Change in ownership or operation of the setting
5. Change in status of setting being an approved provider of Medicaid 1915(c) waiver services

Procedure for Assessing and Determining HCBS Compliance for Non-POCO Residential Settings

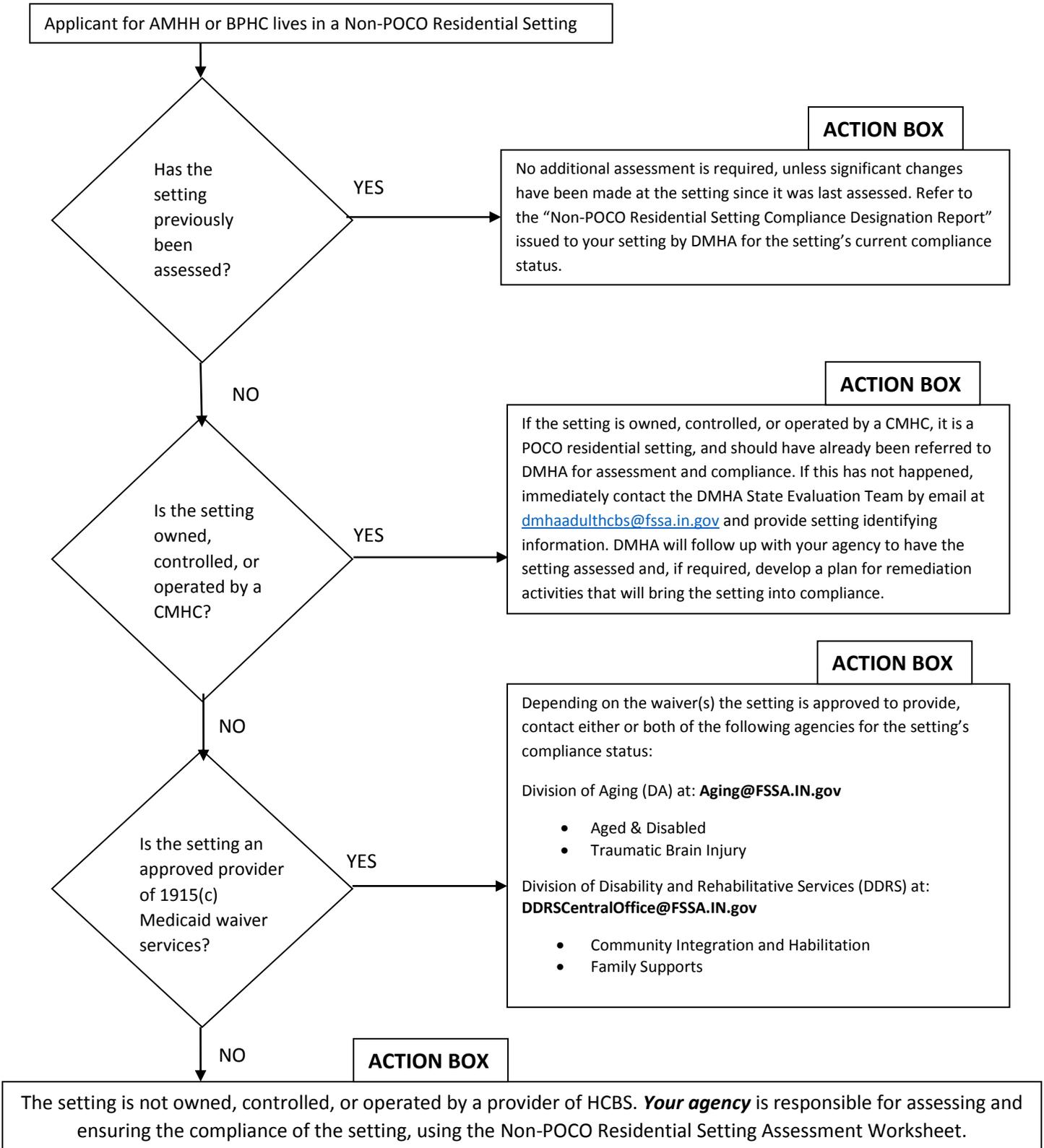
To assist CMHCs in assessing residential settings not owned, controlled, or operated by a CMHC, this assessment packet includes a “Non-POCO Residential Setting Assessment Worksheet”, which contains exploratory questions to help CMHCs and DMHA determine whether the setting is fully compliant with the Final Rule. The assessment, compliance determination, and (where required) remediation process is described in this section.

When a CMHC identifies a member wishing to apply for AMHH or BPHC who lives in a non-POCO residential setting, the CMHC must first make two preliminary determinations:

1. Has the setting been previously assessed by the CMHC, and a compliance determination made by DMHA? DMHA maintains a compliance database of residential settings not owned, controlled, or operated by a provider of HCBS. Once a setting has been assessed, it does not need to be re-assessed unless significant changes are made to the physical structure or service programming at the setting.
2. Is the setting owned, controlled, or operated by a provider of HCBS [a CMHC or an approved provider of Medicaid 1915(c) waiver services]?
 - a. A CMHC should already know which residential settings it owns, controls, or operates, and the current compliance designation of those settings. If in doubt, contact your agency’s AMHH/BPHC coordinator.
 - b. Some resources to help CMHCs determine whether a setting is an approved provider of Medicaid 1915(c) waiver services are described on pages 8 and 9 of this information sheet. **It is ESSENTIAL that a CMHC assessing a non-POCO residential setting correctly establish whether the setting is an approved provider of 1915(c) Medicaid waiver services.**

Once these preliminary determinations have been made, the CMHC uses the following flow chart to identify the agency responsible for assessing and ensuring HCBS compliance at the setting, and determine the next action steps.

Flow Chart for Determining Assessment/Compliance Responsibility – Non-POCO Residential Settings



For those residential settings not owned, controlled, or operated by a provider of HCBS, the CMHC initiates the following process:

1. The CMHC completes the “Non-POCO Residential Setting Assessment Worksheet” *in its entirety*, and the completed worksheet is submitted to the DMHA SET for a compliance designation.
2. The CMHC selects “Non-POCO Residential Setting” in the “Current Living Situation” section of the member’s application for AMHH or BPHC in DARMHA, as shown below, and submits the application in DARMHA.

Select here for all identified non-POCO residential settings, regardless of the setting’s compliance designation, and regardless of whether the “Non-POCO Residential Setting Assessment Worksheet” has been submitted to DMHA.

Current Living Situation :

Community-based Settings:

- Homeless
- Private/Independent Home
- Non-POCO residential setting
- POCO Residential Setting
- Potential Presumed Institutional setting

Institutional Settings:

- Nursing Home
- Hospital
- Institution for Mental Disease (IMD)
- ICF/IID
- Jail/Correctional Facility

Note: The DARMHA application may be submitted before the “Non-POCO Residential Setting Assessment Worksheet” is completed and submitted to DMHA, but “Non-POCO Residential Setting Assessment Worksheet” must be submitted within 30 days of the application submission. The “Non-POCO Residential Assessment Worksheet” may also be submitted prior to an application submission or at the time of an application submission.

DMHA Compliance Designations for Non-POCO Residential Settings

Once the “Non-POCO Residential Setting Assessment Worksheet” has been received by DMHA, the SET will make one of three possible compliance designations for the setting. The compliance designation is based on the information contained in the worksheet and DMHA desk review, and communicated to the CMHC through a “Non-POCO Residential Setting Compliance Designation Report”.

1. "FULLY COMPLIANT": the setting has been determined to meet all of the criteria for a residential setting not owned, controlled, or operated by a provider of HCBS, and is an eligible setting for delivery of AMHH and BPHC services.
2. "POTENTIAL PRESUMED INSTITUTIONAL": the setting has been determined to potentially have one or more qualities of an institution, based on the CMHC assessment and DMHA desk review. DMHA will coordinate with the CMHC to provide technical assistance, including a joint DMHA/CMHC site visit, to determine whether the setting must be referred to CMS for heightened scrutiny in order to become an eligible setting for delivery of AMHH and BPHC services.
3. "NEEDS MODIFICATIONS": the setting has been determined to need remediation to bring it into compliance with one or more of the requirements of the Final Rule.

For those non-POCO residential settings designated "Needs Modifications", the CMHC will develop a Setting Operating Authority Setting Action Plan (SOA SAP), to identify and monitor required remediation activities at the setting. Refer to the "DMHA Adult Programs" section of the Statewide Transition Plan for information about developing the SOA SAP. The STP is available here: [Indiana HCBS Statewide Transition Plan](#).

Steps for Completing the Non-POCO Residential Setting Assessment Worksheet

The "Non-POCO Residential Setting Assessment Worksheet" is a separate part of this assessment packet which contains exploratory questions to help CMHCs and DMHA determine whether the setting is fully compliant with the requirements for residential settings not owned, controlled, or operated by a provider of HCBS. **The worksheet only needs to be completed if the residential setting being assessed is not owned, controlled, or operated by a provider of HCBS.**

Both sections of the worksheet must be completed in their entirety before submitting the worksheet to the DMHA SET. The CMHC staff member completing the worksheet **MUST** do so during an in-person site visit to the setting under assessment. That way, staff at the setting can help ensure that the assessment is as accurate as possible, and any areas of ambiguity can be resolved before the worksheet is submitted to DMHA.

Section 1: Setting Identification, Description, and Operation Information

Enter the following required information:

CMHC Conducting Assessment

Date of Assessment

Setting Name

Setting Address

Setting Operating Authority (the organization, company, or other entity that operates the setting, and has authority to implement any required remediation at the setting)

Description of the setting (type of setting, licensure/certification status, number of residents, type of services provided, etc.)

Answer the three questions:

Was the setting established, or did the setting begin providing services to residents, prior to March 17, 2014?

Is the setting owned, controlled, or operated by a CMHC?

Is the setting an approved provider of 1915(c) Medicaid waiver services?

Section 2: Assessment Questions

Section 2 of the worksheet is divided into six subsections (A through F), which correspond to the criteria that a residential setting not owned, controlled, or operated by a provider of HCBS must meet in order to be an eligible setting for delivery of HCBS. Most of the questions are answerable by YES or NO, with N/A (not applicable) as an option for a few questions. ALL of the questions in subsections 2A through 2F must be answered – do not leave any questions blank!

There is a narrative section available for additional information or comments from CMHC or setting staff.

Submitting the Assessment Worksheet

Responses to the questions, and any additional comments or information, must be entered (typed) onto the worksheet. Handwritten and/or PDF submissions will not be accepted. Once completed, the worksheet must be emailed (in its original Microsoft Excel format) to the DMHA SET at dmhaadulthcbs@fssa.in.gov.

Additional Information for Providers

Residential Setting Screening Tool (RSST)

For settings which are owned, controlled, or operated by a provider of HCBS [a CMHC or an approved provider of 1915(c) Medicaid waiver services], the compliance designation determined by the responsible state agency (DMHA, DA, or DDRS) supersedes the compliance designation your agency may derive through completion of the RSST. As such, there is no need to “complete” the RSST with applicants living in one of these settings. In Section 6 of the RSST, select the compliance designation for the setting as determined by the responsible state agency (DMHA, DA, or DDRS), add a note that the designation was provided by that agency, and have the member sign.

Note: An updated version of the RSST, the Residential Setting Screening Tool-Revised (RSST-R), will be required for use beginning July 8, 2017. The RSST-R removes the requirement for CMHCs to “re-assess” the member’s residential setting with each AMHH/BPHC application.

Resources for Determining Whether a Non-POCO Residential Setting is an Approved Provider of 1915(c) Medicaid Waiver Services

A key step in determining the agency responsible for assessing and ensuring HCBS compliance for a non-POCO residential setting is to determine whether the setting is an approved provider of Medicaid waiver services. A few resources to help determine whether the setting is an approved Medicaid waiver service provider:

1. Ask someone at the setting! A senior administrator at the setting should immediately know whether the setting is approved to provide Medicaid waiver services to its residents.
2. There is a search function available on the Indiana Medicaid website, which allows users to locate waiver service providers in Indiana. Use the following link:

<http://www.indianamedicaid.com/ihcp/ProviderServices/ProviderSearch.aspx>

Provider Search

Important: This search finds providers of medical services enrolled with Indiana Medicaid. However, these providers may not be accepting new patients or patients in every Medicaid program. You should contact the provider directly to see whether he or she is accepting new patients. Be sure to tell the provider that you have Medicaid coverage.

If you are enrolled in Healthy Indiana Plan (HIP), Hoosier Care Connect, or Hoosier Healthwise, you should contact your health plan to find medical providers in your plan's provider network. You may use this site to find dental providers but must call the provider to ensure that he or she is accepting your coverage type.

Provider

Physician
Pharmacy
Dentist
Hospital
Other

Specialty

- A&D Structured Family Caregiving
- A&D Transportation
- A&D Vehicle Modifications
- Aged & Disabled Waiver (A&D)**
- Autism Waiver
- CA PRTF Demonstration Waiver Grant

Hint: To select multiple specialties, hold down the 'Ctrl' key while selecting each specialty. If 'All Specialties' is selected, there is no need to select individual specialties.

Under **Provider** select "Other", then select "Waiver Provider" from the adjacent pull-down menu.

Under **Specialty** you can select a specific waiver, a specific waiver service, or all waiver service providers.

Aged & Disabled Waiver (A&D) is selected here as an example.

The search results can be narrowed by setting name or geographic region. If the setting is found, a list of the Medicaid waiver services the setting is approved to provide will be displayed.

3. On the Indiana State Department of Health website, there is a list of all licensed and certified long term care programs in Indiana. Go to <http://www.in.gov/isdh/23260.htm> and scroll down to “Links to Long Term Care Licensing and Certification Programs”. The three links indicated by arrows in the picture below [*Comprehensive Care Facility (Nursing Homes) Licensing and Certification Program*, *Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) Certification Program*, and *Residential Care Facility Licensing Program*] take you to the website for each respective program, and those program websites all have directories that are searchable by city or county, or an alphabetical list may be viewed. The links struck through in red are to individual certification programs, and are probably not useful in trying to determine whether a setting is an approved Medicaid waiver services provider.

CAUTION: If the setting in question appears in the directory on either of these program websites, that is an indication that the setting **may** have qualities of an institution (it may have a locked “memory care unit”, or co-located with a nursing facility). Further research is required.

Links to Long Term Care Licensing and Certification Programs

- [Comprehensive Care Facility \(Nursing Homes\) Licensing and Certification Program](#)
- ~~[Certified Nurse Aide \(CNA\) Registration Program](#)~~
- [Intermediate Care Facilities for Individuals with Intellectual Disabilities \(ICF/IID\) Certification Program](#)
- ~~[Life Safety Code Program](#)~~
- ~~[Qualified Medication Aide \(QMA\) Registration](#)~~
- [Residential Care Facility Licensing Program](#)

If the setting you are assessing calls itself an assisted living facility (ALF), look here. Licensed assisted living facilities (ALFs) in Indiana must also be licensed residential care facilities (RCFs), so they should appear in this program setting directory.

Note: As of 3/16/17, the link to the site for the ICF/IID Certification Program was not working. Use this hyperlink to access a searchable directory of all licensed ICF/IID facilities in Indiana:

[Directory of Intermediate Care Facilities for Individuals with Intellectual Disabilities \(ICF/IID\)](#)